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24 Attorneys for Defendants
25 BAUER'S LIMOUSINE SERVICE, INC.
26 and GARY BAUER

27 UNITED STATES DISTRICT COURT
28 NORTHERN DISTRICT OF CALIFORNIA

1 ROGER PORTER, MICHAEL KRAFT, and
2 BEN ROSS, on their own behalf and on behalf
3 of all others similarly situated,

4 Plaintiffs,

5 v.

6 BAUER'S LIMOUSINE SERVICE, INC., a
7 California corporation, and GARY BAUER, an
8 individual,

9 Defendants.

10 Case No. 3:10-CV-01074-JSW

11 **SECOND STIPULATION AND
12 [PROPOSED] ORDER RE: ADR
13 PROCESS**

14 Complaint Filed: March 12, 2010
15 First Amended Complaint Filed: April 9, 2010

The Parties to the above-entitled action jointly submit this Stipulation and [Proposed] Order regarding the alternative dispute resolution ("ADR") process, pursuant to this Court's order (issued on July 23, 2010 [*see* Doc. 27, filed 7/26/2010]) regarding the same.

Early Neutral Evaluation (ENE). The Parties agree to complete the ENE process provided by the Northern District no later than 120 days from the date this Order is entered by the Court or November 30, 2010, whichever is sooner. The Parties respectfully request that any ENE evaluator appointed by the Court should be well-versed in issues related to the overtime requirements of the Fair Labor Standards Act and, specifically, with respect to the exemption to the same requirements provided by the Motor Carrier Act. *See* 29 U.S.C. § 213(b)(1), 49 U.S.C. § 35102.

Early In-Person Meeting. The Parties further agree that all reasonable efforts shall be made to hold an in-person settlement conference between counsel in this case, no later than 60 days after the entry of this Order or October 1, 2010, whichever is sooner. The Parties will make all reasonable efforts to exchange information (formally or informally) prior to that in-person meeting, so that productive settlement discussions may be had. The Parties also agree to meet and confer in good faith at such meeting, in an attempt to fully and finally resolve the issues in this action. The Parties agree that all briefing and other materials submitted at or in connection with this in-person meeting (which are created for the purpose of such meeting) shall be considered to be privileged settlement material (see Fed. Rule. Evid. 408).

Thus, the Parties, through their undersigned counsel, respectfully request that the Court enter this Stipulation as an Order.

IT IS SO STIPULATED.

Each of the undersigned certify that the content of the foregoing document is acceptable to all persons required to sign the document and authorization to electronically sign this document has been obtained.

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SECOND STIPULATION AND
[PROPOSED] ORDER RE: ADR PROCESS

1 Dated: July 30, 2010

Respectfully submitted,

3 */s/ Benjamin K. Lunch*
4 WILLIAM J. FLYNN
5 BENJAMIN K. LUNCH
6 Attorneys for Plaintiff
7 ROGER PORTER

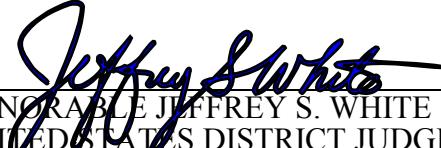
8 Dated: July 30, 2010

Respectfully submitted,

9 */s/ Joshua D. Kienitz*
10 ROBERT A. HULTENG
11 JOSHUA D. KIENITZ
12 RYAN E. ABERNETHY
13 LITTLER MENDELSON P.C.
14 Attorneys for Defendants
15 BAUER'S LIMOUSINE SERVICE, INC.
16 AND GARY BAUER

17 **IT IS SO ORDERED.**

18 Dated: August 9, 2010

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20 HONORABLE JEFFREY S. WHITE
21 UNITED STATES DISTRICT JUDGE

22 FIRMWIDE:96588280.1 053752.1006

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SECOND STIPULATION AND
[PROPOSED] ORDER RE: ADR PROCESS